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SEP 27 1982
ALEXANDER L. STEVAS,
CLERK

No. 8, Original

In the Supreme Court of the United States

OCTOBER TERM, 1982

STATE OF ARIZONA, COMPLAINANT

v.

STATE OF CALIFORNIA, ET AL.

ON EXCEPTIONS TO THE REPORT OF THE SPECIAL MASTER

SUPPLEMENTAL MEMORANDUM FOR THE UNITED STATES WITH RESPECT TO ITS FIRST EXCEPTION TO THE SPECIAL MASTER'S REPORT

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The First of our Exceptions to the Final Report of the Special Master in this case, filed in May 1982, addressed the recommended disallowance of water rights claimed by the United States in respect of specified irrigable acreage on the southwest boundary of the "checkerboard area" of the Fort Mojave Indian Reservation solely on the ground that, on the record before the Master, the land in question had not been shown to have been "finally determined" by formal action of the Department of the Interior to lie within the boundaries of the Reservation. See U.S. Exceptions 5–7. We represented that survey work under way was expected to confirm the Reservation status of a portion of that acreage as natural accretion to Sections concededly part of the Reservation; we stated that, when the survey was

complete, we would submit the result to the Court, and we indicated the anticipated net effect on the recommended decree. *Id.* at 6–7.

In their Answering Brief (at 1–2), the State Parties maintained their position with respect to all "boundary lands"—that "unilateral actions by the Secretary of the Interior" do not qualify as "final determinations" justifying additional river diversion rights under the Court's 1964 Decree. They agreed, however, that the acreage in question "should be treated the same as other 'boundary lands' in this case." *Id.* at 2. Nor did the State Parties interpose any objection to our submitting directly to the Court the evidence of final surveys covering this acreage.

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The surveys alluded to have been completed, finally approved and filed. Accordingly, we herewith tender the relevant documents as part of the record in the case. Specifically, we are submitting to the Court (with copies to all parties):

1. A survey plat, in three sheets, officially accepted and filed September 16, 1982, covering:

(a) 131.63 acres of accretion to Section 4, T. 17N, R. 22W, G.& R.R.M., all of which are additional "boundary lands," being the major portion of an area identified as Parcel FM–11 in the Record of the case (17 acres of Parcel FM–11 having been treated by the Special Master as Reservation lands for which water rights have been recommended);

(b) 255.87 acres of accretion to Section 10 of the same Township, of which 234.41 acres constitute Parcel FM–12 (Lot 3, comprising a total of 21.46 acres, having been treated in the earlier proceedings as Reservation land for which

water rights have been adjudicated), and of which 162.41 acres are additional "boundary lands" (some 72 acres of Parcel FM–12 having been treated in the earlier proceedings as Reservation land for which water rights have been adjudicated);

(c) 1.75 acres of accretion to Section 22 of the same Township, no part of which is claimed as additional "boundary land" in this proceeding; and

(d) 383.84 acres of accretion to Section 24 of the same Township, of which 158.22 acres are additional "boundary lands" identified in the Record as Parcel FM-13A (Lots 5, 9, 10, 11, 12, 13 and 14, comprising a total of 225.62 acres, having been treated in the earlier proceedings as Reservation land for which water rights have been adjudicated);

2. The Field Notes appertaining to the foregoing survey;

3. A survey plat, approved March 22, 1963 and filed June 5, 1963, covering:

(a) 108.16 acres of accretion to Section 20, T. 17N, R. 21W, G.& R.R.M., of which 98.55 acres are additional "boundary lands" identified in the Record as Parcel FM–13B (Lot 2, comprising 9.61 acres, having been treated in the earlier proceedings as Reservation land for which water rights have been adjudicated); and

(b) 241.76 acres of accretion to Section 32 of the same Township, of which 200.12 acres are additional "boundary lands" identified in the Record as Parcel FM–13C (Lots 3 and 9, comprising a total of 41.64 acres, having been treated in the earlier proceedings as Reservation land for which water rights have been adjudicated);